



Nebraska Resources

Newsletter

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Integrated Management Planning Process

By Tina Kurtz

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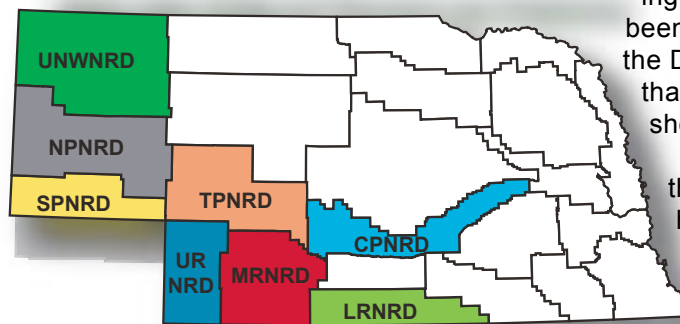
<http://www.dnr.state.ne.us>

LB 962, which went into effect on July 16, 2004, **did not make in major changes in how the State of Nebraska regulates surface water or how the local Natural Resources Districts regulate ground water.**

However, the new law did change the process by which the DNR and NRDs use to develop a plan for the integrated management of surface water and ground water. Under the previous law, § 46-656.28, a District could request the Department to conduct studies and hold a hearing on whether a joint action plan for the integrated management of hydrologically connected ground water and surface water should be prepared. If the Department determined that a joint action plan should be prepared, the NRD could then choose whether to develop such a plan with the Department.

The Upper Niobrara White NRD (UNWNRD), North Platte NRD (NPNRD), South Platte NRD (SPNRD), Twin Platte NRD (TPNRD), Central Platte NRD (CPNRD), Upper Republican NRD (URNRD), Middle Republican NRD (MRNRD) and Lower Republican NRD (LRNRD) all made this request to the Department. Prior to the passage of LB 962, the Director made a preliminary determination that there is a reason to believe that the use of hydrologically connected ground water and surface water resources is contributing to or is in the reasonably foreseeable future likely to contribute to (a) conflicts between ground water users and surface water appropriators, (b) disputes over interstate compacts or decrees or (c) difficulties fulfilling the provisions of other formal state contracts or agreements, in the UNWNRD, the SPNRD, the TPNRD and the CPNRD. In the NPNRD, the URNRD, the MRNRD and the LRNRD, the same preliminary determination was made, and the process moved further ahead. In each

Nebraska Natural Resources Districts



of these NRDs, a hearing was held and it had been determined by both the Director and the NRD that a joint action plan should be prepared.

On **July 16, 2004**, the Districts that had initiated the § 46-656.28 process were transitioned into the new law and became fully

appropriated, either as a preliminary determination (UNWNRD, SPNRD, TPNRD and CPNRD) or as a final determination (NPNRD, URNRD, MRNRD and LRNRD). For NRDs subject to a preliminary determination of fully appropriated, the provisions of LB 962 required that a hearing be held on whether the area is fully appropriated and if so, what portion of the District is fully appropriated. These hearings, along with public informa-

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tion meetings held prior to the hearings, were conducted this fall in the CPNRD, the TPNRD, the SPNRD and the UNWNRD. As a result of these hearings, a portion of the UNWNRD and the entirety of the CPNRD, the entirety of the TPNRD and the entirety of the SPNRD were declared fully appropriated.

It was important to the Legislature and to the Water Policy Task Force that the work begun in these Districts relating to integrated management under § 46-656.28 was not negated by the new legislation (LB 962). A portion of LB 962 (Section 60, now § 46-720), provided for this transition process. As part of the determination of fully appropriated (both the preliminary and final determinations), stays were placed on the construction of new water wells, on the issuance of water well construction permits, on new surface water appropriations and on new surface water or ground water irrigated acres. These stays apply only to the portions of the Districts where there was a temporary suspension pursuant to § 46-656.28(16) prior to July 16, 2004. In addition to the stays, the Districts determined to be fully appropriated (final determination) are required to develop an integrated management plan with the Department.

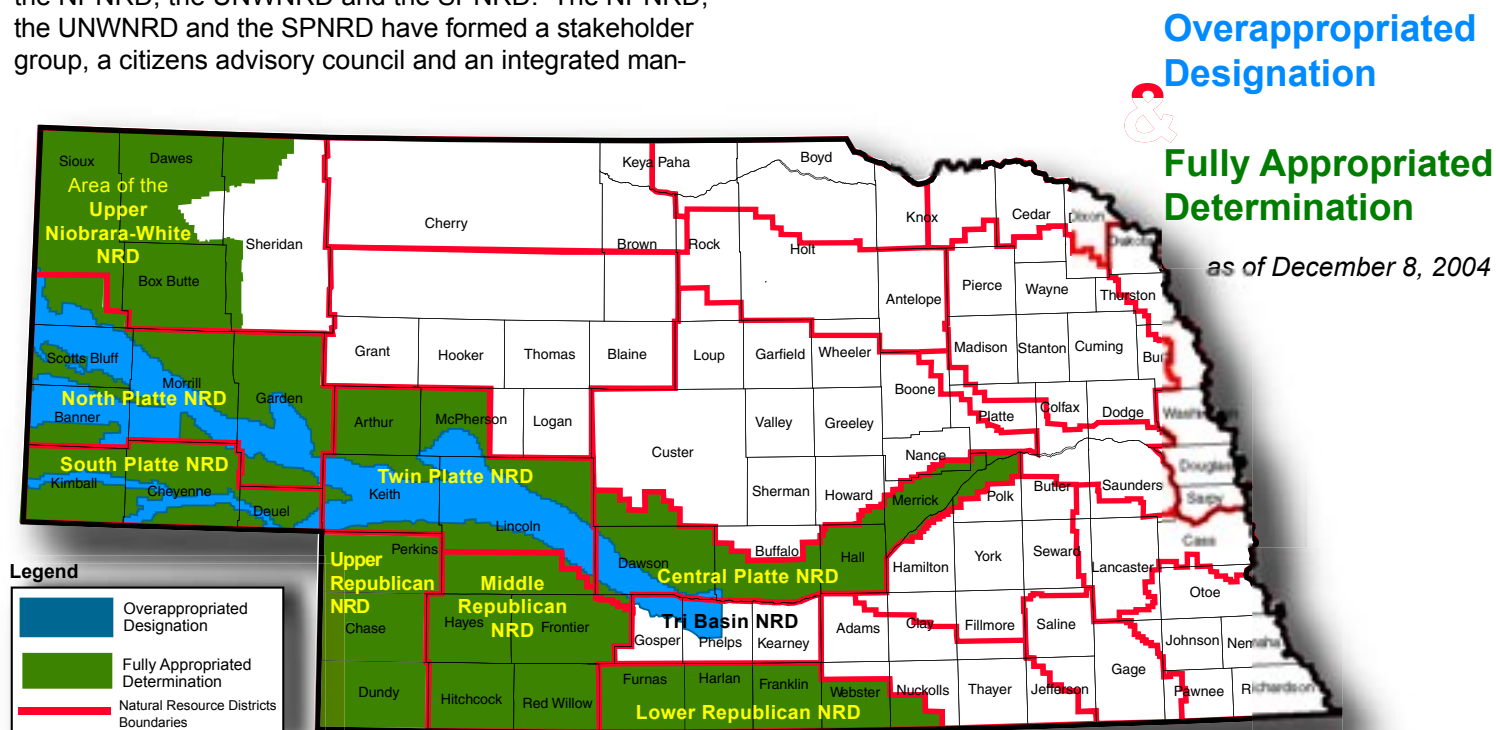
The integrated management planning process has already started in several of the Districts. In the Republican Basin NRDs, this process has been going on for over a year, primarily due to the compliance requirements of the Republican River Compact. The MRNRD has recently completed and adopted an integrated management plan (IMP) which the Department will also be adopting later this year. The URNRD is currently working with the Department on the development of an IMP for their District. A significant amount of work on the IMP has also been done in the NPNRD, the UNWNRD and the SPNRD. The NPNRD, the UNWNRD and the SPNRD have formed a stakeholder group, a citizens advisory council and an integrated man-

agement planning work group, respectively, in which a number of people representing different interests such as surface water irrigation, ground water irrigation, public power districts, municipalities, recreation and economic development, among others, meet periodically to discuss the goals, objectives and possible controls of the IMP. Concerning the IMP, these groups function in an advisory role to both the NRD Board and to the Department. It is the NRD Board and the Department that will make the final decisions regarding the IMP.

However, the importance of these groups should not be underestimated. The collaborative process for development of the IMP is an integral part of the new law, as it specifically mandates collaboration with interested parties in the preparation of the IMP. In practice, these groups have worked very well. There has been meaningful dialog and discussion between people who hold both the same and differing viewpoints and many good ideas have been brought forward. The meetings have furthered each participant's understanding of the difficult issues the IMPs are dealing with.

The meetings with the groups in the NPNRD, the UNWNRD and the SPNRD have included the respective NRD Boards and representatives from the Department. These meetings are advertised in the local newspapers and are open to the public. They are an excellent opportunity for the public to get involved in the planning process either through the group representative or by utilizing the public comment period during the meetings. The meetings are also an opportunity for everyone to further their knowledge of the issues.

For more information related to LB 962 and the integrated management planning process, please visit the Department's website at <http://www.dnr.state.ne.us/LB962/LB962Implementation.html>.



Implementation of LB 962: Rulemaking

By Ann D. Diers

Rules and regulations of state agencies implement, interpret, or make specific the law enforced or administered by the state agency. Statutes administered by state agencies often contain provisions requiring the state agency to prepare and adopt rules.

In Nebraska, the agency rulemaking process is governed by the Administrative Procedure Act, Neb. Rev. Stat. Sections 84-901 through 84-932 (the "APA"). The APA requires the state agency to hold a public hearing prior to the adoption, amendment, or repeal of a rule. Published notice of a rules hearing must be provided in a newspaper having general circulation in the state at least thirty days prior to the hearing. Copies of the proposed rules and regulations must be made available to the public in the office of the Secretary of State at the time notice is given.

LB 962 contains several provisions requiring the Department of Natural Resources (DNR) to promulgate rules. DNR has already published notice of and held a hearing on October 12, 2004. That hearing related to a rule proposed by DNR which enumerates the types of scientific data and other information that will be considered in developing an integrated management plan. The section of the legislation which mandates this rulemaking also requires the NRDs to adopt similar rules and regulations. Following the October 12th hearing, DNR forwarded its final proposed rule to the Attorney General's Office.

In some instances, the rules that DNR is required to promulgate will carry out new processes created by LB 962. An example of this is LB 962's provision relating to applications for transfers in location of use of an appropriation that may be processed in an expedited manner by DNR.

In other instances, LB 962 requires DNR to specify the information it will consider for certain purposes by rule or regulation. An example of this is found in Section 46-713(1)(d), which states that DNR shall specify by rule and regulation the types of scientific data and other information that will be considered for making the preliminary determinations of the appropriated status of river basins required to be made by DNR following its annual evaluation process, which begins January 1, 2006.

DNR is in the process of drafting several additional rules to implement the requirements of LB 962. For example, LB 962 amended the statutes applicable to transfers of use. In addition to the new authority for DNR to approve an application without notice or hearing if certain conditions are met (referenced above), LB 962 also added provisions enabling temporary transfers to be made under certain circumstances. Transfers may not be approved, however, until DNR has adopted rules and regulations establishing certain criteria. In addition to drafting rules for "expedited" transfers, DNR is drafting rules for the non-expedited transfer process and temporary transfers. These rules will reflect changes LB 962 effected to the transfer process.

LB 962 mandates that DNR complete an evaluation, by January 1 of each year beginning in 2006, of the expected long-term availability of hydrologically connected water supplies for both existing and new surface water uses and existing and new ground water uses in each of the state's river basins, and issue a report describing the results of the evaluation. In preparing the report, DNR is to rely

on the best scientific data and information readily available. DNR must specify by rule and regulation the types of scientific data and other information that will be considered for making the determination required to be made in the reports.

DNR must also specify by rule and regulation the circumstances that will constitute sufficient cause for nonuse of an appropriation for up to fifteen years.

DNR would like the affected members of the public to be involved in the rulemaking process. That involvement can range from simply showing up at a rules hearing which has been duly noticed to testify on the subject matter of the rules, to becoming involved in an informal group of stakeholders and interested parties that DNR invites to provide input on draft versions of various rules, to a full negotiated rulemaking process. The negotiated rulemaking process is much more formal than the other approaches to providing input into the rulemaking process. The negotiated rulemaking process is generally initiated by a petition. DNR has 60 days, on receipt of a petition, to either deny the petition, or to initiate the negotiated rulemaking process.

If DNR decides to go forward with the establishment of a negotiated rulemaking committee, DNR must give notice to the Secretary of State, publish notice, and follow the specific requirements of the rules relating to the negotiated rulemaking process. The published notice must explain how a person may apply for or nominate others for membership on the committee. Once DNR receives and reviews any comments and applications submitted to it following publication of the Notice, DNR may: a) establish a negotiated rulemaking committee (if DNR determines that a negotiated rulemaking committee can adequately represent the interests of the persons that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rulemaking), or b) decide not to establish a negotiated rulemaking committee. If DNR decides not to establish a negotiated rulemaking committee, it must notify persons who commented on or applied for membership on the negotiated rulemaking committee of the reasons for the decision. DNR must also publish a notice of any decision not to establish a negotiated rulemaking committee. Any negotiated rulemaking committee that is formed will negotiate issues and develop proposed rules for use by DNR in formal rulemaking. Any committee formed would operate on a consensus basis. If it does not reach consensus, no rule will be forwarded to DNR; however, a report is to be prepared by the committee.

DNR published a Notice on October 26, 2004, that it intends to establish a negotiated rulemaking committee. The negotiated rulemaking committee would be formed to prepare a report and/or proposed rule(s) relating to the evaluations and reports that DNR must complete by January 1 of each year beginning in 2006. The comment/application period related to that Notice expires on November 29, 2004.

Obviously, a negotiated rulemaking process is not going to be appropriate for every rule that must be drafted. DNR may be able to attract most stakeholders and interest groups to a less formal series of meetings in which ideas are shared, and achieve the same level of involvement in that manner.



Enterprise Nebraska Metadata Clearinghouse

By Mahendra Bansal

The Nebraska Department of Natural Resources is the host agency for the **Enterprise Nebraska Metadata Clearinghouse**. As part of the **Nebraska Geospatial Data Center**, the Clearinghouse is a one-stop portal for online searching, accessing and disseminating geospatial data relating to the geographic area of Nebraska. It is structured and maintained in a manner compatible with the national Federal Geographic Data Committee (FGDC) geospatial data clearinghouse network.

The Clearinghouse allows collaborating organizations and agencies to administer their own metadata, as well as access enterprise metadata resources at their convenience. The architecture is designed to encourage submission of new metadata, edits to existing metadata, and review of available data on an ongoing basis. Links within the metadata provide direct online access to in-house Data Bank resources as well as to geospatial databases maintained by participating agencies.

Metadata is basic information about the dataset including originator's name, contact information, available for-

mats, currentness, quality assurance, spatial references, and the distributor's requirements for acquiring and using the data. Utilizing metadata standards that provide a common set of terminology, definitions, and formats for documenting information about a dataset enables a dataset to be shared more appropriately and effectively.

It is expected that the Clearinghouse will provide a wide range of data access and support services. These include geographic data integration, online data distribution, and Internet Map Server applications to the Nebraska GIS user community. The value will increase as more data collecting agencies move in the direction of developing FGDC-compliant metadata, and participate in the Enterprise Nebraska Metadata Clearinghouse network. DNR is collaborating with the Nebraska GIS Steering Committee and UNL Libraries to assist other entities in their efforts to gather and submit geospatial metadata to the Clearinghouse. This is made possible through a grant from the Nebraska States Records Board.

<http://dnrserver26.dnr.state.ne.us/metadataexplorer/explorer.jsp>



Republican River Basin water appropriations were examined during 2003-

2004 and a summary of the results are seen at the right.

Republican River Basin Water Rights Adjudications Summary 2003-2004

NUMBER OF APPS TO HEARING	2003-2004 TOTALS								
	BEGINNING NUMBERS			CANCELLED NUMBERS			ACRES LEFT IN EFFECT	C.F.S. LEFT IN EFFECT	A.F. LEFT IN EFFECT
	ACRES	CFS	AF	ACRES	CFS	AF			
364	27,076.42	318.72	452.51	17,061.62	199.21	452.51	10,014.80	119.51	0.00

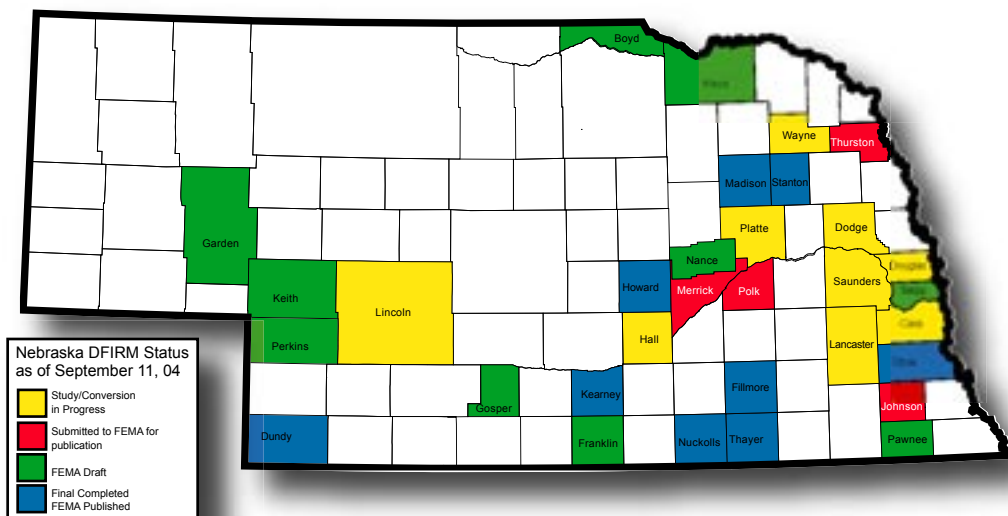
As part of floodplain management coordination, NDNR is responsible for mapping Nebraska's floodplains and coordinating mapping efforts for regions in Nebraska where floodplain maps are not adequate. The state map at the right shows the status of floodplain maps in counties that the Department of Natural Resources has recently mapped or is currently mapping. A county is considered finished only when they have an electronic, reviewed, and revised countywide map available. Additional Nebraska counties (as shown in the *Nebraska Resources*, Spring 2003 article) were previously mapped by FEMA and published in a paper only format.

For additional information visit

<http://www.dnr.state.ne.us/floodplain/flood/LAMI.pdf>

2003-2004 Floodplain Mapping- Large Area Map Initiative Update

An article in the *Nebraska Resources*, Issue 10, Spring 2003 outlined the Large Area Map Initiative Program



Nebraska Rainfall Assessment and Information Network



(NeRAIN)

<http://dnrdata.dnr.state.ne.us/NeRAIN/>

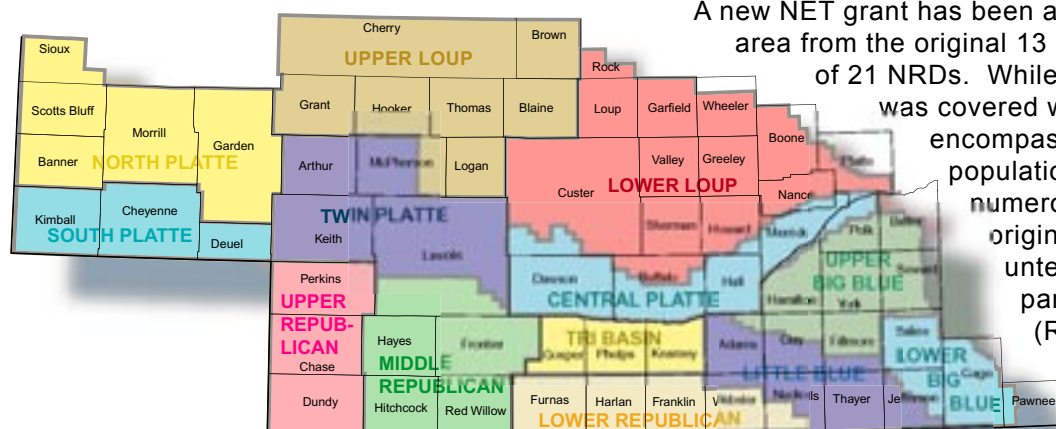
The NeRAIN project (pronounced Any Rain?) grew out of a need from the Cooperative Hydrology Study (COHYST) Technical Committee meeting in February 2003, for rainfall data in areas of Nebraska where official weather stations were sparse. Technical Committee member and DNR staff member, Rich Kern, checked with the Nebraska State Climatologist and found Colorado had a program called Community Collaborative Rain and Hail Study (CoCoRaHS). Upon contacting that organization, Rich, found CoCoRaHS desired to expand their project area into surrounding states and were willing to help Nebraska get organized and started. Consequently, NeRAIN is patterned after the CoCoRaHS project and will eventually share data with the Colorado program and Wyoming when their new systems are up and running.

The next step was briefing natural resources district managers at a managers meeting in June 2003 on the proposed project and soliciting their help and support. The Little Blue NRD volunteered to become the project sponsor and a grant application to the **Nebraska Environmental Trust (NET)** was submitted in September of 2003 and approved in March 2004 for a \$15,000 grant. Thirteen of the 23 NRDs agreed to participate the first year of the project and acted as regional coordinators to solicit volunteers within their districts. The grant money was used for cost sharing of official rain gauges and for training volunteers. The NRDs trained the volunteers on proper gauge placement, reading and accurately reporting the measured precipitation. The original goal was 1,000 volunteers in the first year and after just three months, the number of volunteers were over 600.

DNRs' role in the NeRAIN project was then to develop a website where volunteers could enter their data, store and present the information and help facilitate the regional coordinators ability to monitor and maintain their area volunteers. Rich Kern, attended a March 2004 meeting in Colorado with CoCoRaHS and then spent numerous days in the development of programs necessary for the website, developed and tested the website and programs and had the website up and running by early May. During the first 4 months approximately 40,000 Nebraska rainfall reports were recorded and the NeRAIN program was deemed a success.

The information has been used by government and public alike for daily monitoring of factors affecting stream-flow, for evaluating the benefits of flood control projects, by crop insurance adjusters verifying damage claims, the US Weather Service to supplement their rainfall network, by the US Fish & Wildlife Service to help manage lands they are responsible for in Nebraska and by the general public seeking precipitation information. As more precipitation data becomes available, more uses of the data are anticipated.

A new NET grant has been applied for to expand the project area from the original 13 participating NRDs to a total of 21 NRDs. While about two-thirds of Nebraska was covered with the initial grant, that only encompassed about one third of the population. The program has had numerous requests from outside the original 13 NRDs region from volunteers wanting an opportunity to participate in the program. DNR (Rich Kern) will continue making improvements to the website to provide additional formats for viewing the data, to provide more quality checks of



the data, and to incorporate the data from surrounding states. Answering volunteers' questions and responding to their requests will also be an integral need for continued success of the project.

The NeRAIN project is a great example of government and public coming together for the benefit of all. As time passes and additional precipitation information is collected and recorded the true worth of the project will become apparent.

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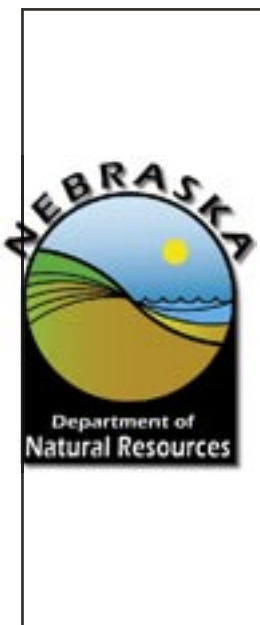
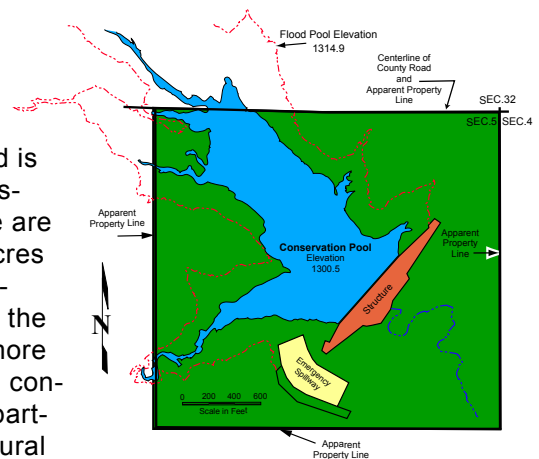
Return Service Requested

Upcoming Land Sale

A 149.77-acre tract of land associated with **Site 88 of the Middle Big Nemaha Watershed Project** will be sold at public auction at 1:30 p.m. on **January 12, 2005**, at the Nemaha NRD office at Tecumseh.

The tract is located one mile northwest of Crab Orchard and is mostly grass-land. There are also 32.6 acres of conservation pool on the tract. For more information, contact the Department of Natural Resources or visit our web site at

www.dnr.state.ne.us/mbn88.html



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The Nebraska Resources is a quarterly publication of the Nebraska Department of Natural Resources and is edited by Terry L. Cartwright, Public Information. Your comments and or suggestions are welcomed.

Nebraska Department of Natural Resources....

....dedicated to the sustainable use and proper management of the State's natural resources.